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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES

Forty-fifth session

SUMMARY RECORD OF THE SECOND PART (PUBLIC)* OF THE 11th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 10 August 1993, at 3.25 p.m.

Chairman: Mr. AL-KHASAWNEH
later: Mr. YIMER

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Question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of apartheid, in all countries, with particular reference to colonial and other dependent countries and territories: report of the Sub-Commission under Commission on Human Rights resolution 8 (XXIII) (continued)

* The summary record of the first part (closed) of the meeting appears as document E/CN.4/Sub.2/1993/SR.11.

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The second part (public) of the meeting was called to order at 3.25 p.m.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII) (agenda item 6) (continued)

1. The CHAIRMAN invited non-governmental organizations to address the Sub-Commission.

2. Mr. DIENG (International Commission of Jurists) said that there were gross violations of human rights in all regions of the world. For instance, in Nigeria, after a decade of military rule President Babangida had refused to accept the result of the democratic elections of 12 June 1993. That did not augur well for the trend towards democratization. A special rapporteur should be appointed to study the steadily deteriorating human rights situation in Nigeria.

3. In Peru, the Constitutional Congress had decided to extend the scope of application of the death penalty: henceforth, persons who committed terrorist crimes would be liable to the death penalty. As those measures were in breach of article 4 of the American Convention on Human Rights, Peru would be forced to denounce that Convention. Furthermore, the fact that some individuals accused of terrorist acts were tried by judges who wore hoods and who were therefore anonymous constituted an interference with the proper administration of justice. The International Commission of Jurists therefore reiterated its call for the appointment of a special rapporteur to study the situation in Peru.

4. In Egypt and Algeria, the use of force by the Islamic opposition had claimed many innocent lives among the civilian population. In both countries, the governmental response had been to establish exceptional courts to try the terrorists or to bring cases of terrorism before the military courts, thus severely undermining the rights of due process. In Egypt, for example, there was no appeal against the decisions of the military courts. There had also been allegations of torture of prisoners while in detention and many death sentences had been passed.

5. In Indonesia, the Anti-Subversion Law and provisions in the Penal Code likely to foment hatred constituted a serious violation of basic human rights. In March 1993, the International Commission of Jurists had sent an observer to the trial of Mr. Xanana Gusmao, a political leader in East Timor, who had been sentenced to life imprisonment in May 1993 for, among other things, attempting to establish a separate state on Indonesian territory. During the investigation and trial, the rights of the defence had been violated in several respects. The court had not, for example, allowed Mr. Gusmao to read his defence statement to the end. Moreover, many witnesses for the prosecution had themselves been in detention, and that raised doubts about the validity of their evidence.

6. On 30 July 1993, the International Commission of Jurists had condemned the Israeli raids on Lebanon, which, in view of their intensity, amounted to a violation of the principle of proportionality embodied in the Charter of the United Nations. Moreover, in targeting the civilian population so as to cause an exodus of civilians to the north, the Israeli authorities were in blatant violation of international humanitarian law and, in particular, of article 50 of the 1907 Hague Convention respecting the laws and customs of war on land.

7. With regard to South Africa, the International Commission of Jurists was convinced that, unless the United Nations and the international community took immediate steps to halt the violence which had already taken more than 10,000 lives in the past three years, the democratic process was doomed to failure. In particular, the population should be prepared for the elections planned for 1994, which would require international monitoring.

8. Mr. BALIAN (Human Rights Advocates) said that his organization was concerned about the situation in the independent republics that had emerged from the Soviet Union - a situation characterized by conflicts concerning nationalities, shortcomings of democratic institutions and neglect of economic and social rights. The former Soviet Republics were overwhelmed by the problems they had inherited, and that was compounded by their limited resources. The international community should therefore intervene and provide the new republics with both technical and human resources assistance.

9. The most serious problems arose in the context of ethnic conflicts. During the past year, three such conflicts - in Tajikistan, Nagorny-Karabakh and Abkhazia - had developed into full-scale wars, causing more than 40,000 deaths, displacing millions of civilians and threatening regional peace and security. There were 80 such conflicts, declared or latent. They were rooted in a history of gross violations of human rights and fundamental freedoms. Indeed, violations of minority rights had formed part of the development of the Soviet State. Millions had been subjected to population transfers for economic or demographic purposes. The seeds of those conflicts had been sown with the arbitrary administrative and political subdivisions created during Soviet rule. With the break-up of the USSR and the independence of the former republics, the conflicts between Moscow and the republics had been resolved, but the conflicts between the republics themselves and between the republics and disenfranchised minorities were far from being resolved.

10. Respect for human rights, including the right to self-determination, non-discrimination and minority rights should be the fundamental guidelines in managing such conflicts: indifference on the part of the international community in that respect would only lead to further conflicts. In that connection, he would refer the Commission to An Agenda for Peace, in which the Secretary-General of the United Nations had underlined the importance of endeavouring through diplomacy to remove the sources of danger before violence resulted.

11. In some cases, the conflicts could be solved through the promotion of pluralism and human rights and fundamental freedoms. In other cases, however, more fundamental changes might be necessary to avert grave violations and, in particular, deportations and massacres. Despite the risks involved, the creation of new States or border changes might be required. The international

community had an interest in early involvement in such disputes in order to encourage change within the framework of existing States, where possible, and to seek a peaceful transition to more fundamental solutions, when necessary.

12. The shortcomings of democratic institutions in the former Soviet republics were self-evident, for most republics were governed by constitutions inherited from the Soviet era which were, at best, supplemented by a patchwork of legislation that was barely adequate to protect human rights. Strong executive powers without adequate legislative checks and balances promoted arbitrary rule instead of democratic governance. Very often, the judicial authorities were still dependent on the executive, thereby impeding the development of human rights and fundamental freedoms. Although new constitutions had been drafted in many republics, the results were very disappointing since, in most cases, their adoption had been the subject of political manipulation. Furthermore, although various articles of the Universal Declaration on Human Rights had been incorporated in many of the new constitutions, that had been done very selectively, with key clauses excised.

13. Such serious shortcomings, combined with a long-established history of absolute rule and intolerance for political pluralism, did not augur well. Former leaders responsible for human rights violations were coming back to power in the independent republics. Democratically elected Governments were being toppled; fundamental freedoms were being restricted; and political unrest and violence threatened many of the new republics. On the pretext of the threat posed by ethnic conflicts and of maintaining law and order, some Governments further restricted political freedoms, thus consolidating their power, or demogogic leaders fanned the fire of ethnic conflicts in an attempt to overthrow democratically elected Governments. Thus, the failure of democratic institutions and the ethnic conflicts were closely linked.

14. With the collapse of the old economic and social order, over 90 per cent of the population in most of the republics had been reduced to poverty and their economic and social rights had been neglected. Explosive social conditions were developing in almost all of the republics as a result of the economic situation, galloping inflation and States' inability to fulfil their obligations towards the most vulnerable groups. The traditional mechanisms for protecting economic and social rights - and, in particular, trade unions - had been deprived of their power or had been eliminated in order to wipe out all vestiges of the old system, without new mechanisms being developed to replace them. Although in some republics the land had been distributed to the peasants, they did not have the means to work it. The old cooperatives had been dismantled and the farm machinery sold to the highest bidder - in other words, to the new "Mafia", not to the peasants.

15. The international community was responsible to a certain extent for the chaotic economic and social conditions in the new republics. In the name of free enterprise, it had promoted free-for-all capitalism to the detriment of economic and social rights. While it was not in the power of the international human rights community to remedy the economic situation in those countries, it could assume responsibility for recreating institutions for the protection of economic and social rights. Without a concerted effort on its part in all three areas - ethnic conflicts, democratic institutions, and economic and social rights - the future might be even bleaker.

16. Human Rights Advocates therefore urged the Sub-Commission to call on all parties concerned to ensure respect for human rights and to take the necessary measures to resolve conflicts without the use of force, relying instead on dialogue, negotiation and mediation. Furthermore, it should call on them to respect fully the laws of armed conflict. It could also urge the Governments concerned to make use of the advisory services of the Centre for Human Rights in order to establish and strengthen the infrastructures that upheld the rule of law and democracy. Non-governmental organizations could perhaps also assist it in the promotion of human rights in the newly independent States by establishing local non-governmental organizations.

17. Mr. LITTMAN (International Fellowship of Reconciliation (IFOR)) said he was surprised that none of the five resolutions on the Palestine question adopted by the Sub-Commission at its preceding session made express reference to the Israeli-Arab negotiations. It was to be hoped that, at its forty-fifth session, the "new spirit" advocated by the Secretary-General in his Agenda for Peace and his annual report to the General Assembly in 1992 to promote reconciliation in the Middle East would inspire the Sub-Commission to adopt balanced resolutions on those issues with a view to creating the right climate for negotiations that would be conducive to the establishment of peace in the region. Non-governmental organizations should also play a part in that regard not only in condemning human rights violations, but also in contributing positive ideas in the appropriate forums. There were several ways in which the negotiations could be advanced. The first way, which IFOR had proposed to the Commission on Human Rights in February 1993, would be to consider the question of the Gaza Strip separately. If all the parties agreed to that, the area could be placed under the mandate of the United Nations, which would thus have a unique opportunity to enhance its administrative capacity and thereby to guarantee a 5-to-10 year period of peaceful transition in accordance with international law. Negotiations to set up such a "mandate" should commence soon under the guidance of the Secretary-General and should be totally separate from the Madrid-based negotiations, which were directed at an interim settlement in the West Bank and Golan areas. All possibilities should be considered even if it was still not clear which new forms of regional cooperation might evolve. At the Multilateral Working Group Conference on Water Resources in the Middle East, IFOR had suggested that cooperation and regional integration should be directed in particular at water management, since that could help to promote more harmonious relations between the parties and ultimately a political settlement to the conflict in the region. With a little imagination, Jerusalem could become a haven of peace and reconciliation. A first example had been afforded with the inauguration of the Variety Centre for Child and Family Developmental Habilitation, which would be open to all children and adolescents born in Jerusalem and its surroundings, whatever their race, creed or nationality and whether they were Israelis, Jordanians or Palestinians.

18. The idea of a confederation comprising Israel, Jordan and Palestine in the Middle East region had been formulated by IFOR for the first time before the Commission on Human Rights on 5 March 1990, then on other occasions and, in particular, at the Sub-Commission's last session. The idea had subsequently been taken up by three eminent personalities, the Israeli Prime Minister, Yitzhak Rabin, his Majesty King Hassan II of Morocco, and the Palestinian leader, Faisal Husseini. The Israeli Minister of Foreign Affairs,

Shimon Peres, had himself suggested, on 23 June 1993, that an Israeli-Palestinian-Jordanian confederation should be established and, more recently, had endorsed the "Gaza first" idea, which was frequently mooted throughout Israel, but not yet in a United Nations context. The idea might, admittedly, seem Utopian, but one should not forget the example of Europe, whose establishment had been prophesied, so to speak, by Coudenhove-Kalergi, Aristide Briand, Winston Churchill, Gustave Stresemann, Maurice Schuman and Jean Monnet. Nearly half a century had passed since Churchill had made his memorable 1946 speech on Europe. Could that example not serve as an inspiration and a model for all those who wanted peace in the Middle East? It was not yet reality, but hope was starting to beckon on the horizon and a new spirit of cooperation which could herald the dawn of a new era was perhaps emerging. The International Fellowship of Reconciliation therefore strongly urged the Sub-Commission to adopt balanced resolutions on the question. It trusted that the "prophets" among its members would convince those who were hesitant to join together in a constructive consensus, since the time had certainly come to ride on the waves into the harbour of peace and reconciliation.

19. Mr. GOLDBERG (International Federation of Human Rights) said that the International Federation of Human Rights (IFHR) was particularly concerned at the flagrant and systematic violations of human rights and humanitarian law committed by the Indian security forces in the Indian administered State of Jammu and Kashmir. The numerous violations, and in particular the systematic use of torture against persons suspected of supporting the Kashmiri armed struggle, had created a climate of total insecurity in the Kashmir Valley, from where 25,000 people had fled to go and live in refugee camps in very harsh conditions. IFHR had published two reports on the situation in the region which were available to the members of the Sub-Commission. The Indian Government's decision not to allow IFHR to send a fact-finding mission to the State of Jammu and Kashmir could only lend more weight and credibility to the reports of human rights violations. Consequently, IFHR urged the Sub-Commission to nominate a special rapporteur to investigate the situation. He would ask Mrs. Shawl, who had been a direct witness of the terror in Kashmir, to address the Commission and then Mr. Azabache, who would comment on the situation in Peru.

20. Mrs. SHAWL (International Federation of Human Rights) said that she used to teach psychology and the methodology of teaching Urdu at a teachers' college in Sopore in the Kashmir Valley and was now living in a refugee camp in Azad Kashmir. During a search of her school, members of the Indian security force (Jawans) had threatened to kill her and she had seen some of her colleagues and students being physically ill-treated and harassed. She had also met women in Sopore and Baremulle who had been the victims of gang rape. For example, Mrs. Shamima Waza, who had been pregnant, had been repeatedly raped by Jawans who had burst into her house in October 1992 and had killed her husband along with two of her nephews. A schoolteacher, Gulshan Akhtar, had been burnt on the hands, legs and arms with a burning piece of wood while being questioned, until she had fallen unconscious. In February 1992, one of her acquaintances, Mr. Hafiz Ahmad Shah, and his wife

and two children, who had been travelling by car to Srinigar, had been shot dead by Indian soldiers who had stopped them near Palhan. Her own sister-in-law, Mrs. Khadeeja Begun, had been killed by Indian soldiers at point-blank range during a search operation.

21. Mr. AZABACHE (International Federation of Human Rights) said that, in Peru, confrontations between the Shining Path terrorists and the security forces had claimed thousands of victims. During the first quarter of 1993, 853 people had died and 427 had been wounded. In addition to the crimes for which the Shining Path was largely responsible, serious human rights violations were also committed by members of the security forces who went unpunished. In 1992, the Coordinadora Nacional de Derechos Humanos had reported 286 cases of enforced disappearances and 114 extrajudicial executions and the Working Group on Enforced Disappearances had estimated that 2,327 cases of disappearances had not been cleared up in Peru. Yet the Government was doing little to remedy the situation. For example, the Congress had decided to stop the investigation into the disappearance, in July 1992, of Professor Hugo Sánchez and nine students from "La Cantuta" University. The Office of the Public Prosecutor had also rejected, inter alia, Amnesty International's offer to assist the prosecutor appointed to carry out an investigation into the mass graves discovered in Lima on 8 July 1992, thus proving how little the authorities were concerned to arrive at the truth. The courts did not enjoy the necessary independence in the performance of their duties and persons accused of offences did not have fair and impartial trials, since the guarantees of due process were never respected. Apart from allowing such abuses, the anti-terrorist legislation in force prohibited applications for a writ of habeas corpus and authorized the sentencing of persons in their absence and of children from the age of 15. Also, under the new constitution, the death sentence could be passed by faceless civil and military courts on persons accused of terrorism and high treason. That was extremely serious as the provision in question was contrary not only to the international obligations of the State, but also to the universal trend towards the abolition of that kind of punishment; it was also an infringement of the right to life.

22. The reorganization of Peruvian institutions was therefore taking place without due regard for the rule of law and for human rights, as was attested to by the fact that those responsible for violations went unpunished, by the lack of judicial guarantees and by the extension of the application of the death penalty. For those reasons, IFHR and its affiliates in Peru, the Asociación Pro-derechos humanos and the Coordinadora Nacional de Derechos Humanos, urged the international community and in particular the Sub-Commission to examine the situation that obtained in that country and to take a stand in the matter.

23. Mr. AL JADIR (Arab Organization for Human Rights) said that the latest annual report of the Arab Organization for Human Rights highlighted the delicate situation which the Arab world had traversed in 1992 and, in particular, the new threats that had arisen and the lack of political and cultural will to face up to the situation. Foreign intervention in some countries had resulted in a tragic situation which was a threat both to the sovereignty of a number of Arab nations and to the right of their peoples to determine their political and economic systems. That situation had resulted

in a divergence of views not only as between the general public and Governments, but also as between the ruling élites and other political forces. The question was whether requests for foreign intervention should be stopped or whether the conditions that led to foreign intervention should be prevented. Regardless of the answer, foreign intervention gained legitimacy in conflicts where there seemed to be no solution in view, as illustrated by the situation in Somalia. The same problem arose with respect to the current confrontation between the various Governments and political Islamic groups in the Arab world. The divergence of views revealed by an analysis of the phenomenon showed that nobody knew how to face up to that dangerous situation as the number of victims increased and the opportunities for a resolution of the conflict faded. The question that remained was whether fundamentalism had its roots in the ideology of those groups or whether it was simply a response to the lack of representation of the opposing view and to the deteriorating economic and social conditions and whether it should be combated by means of security measures or whether, on the contrary, an attempt should be made to strengthen the dialogue between the parties and to cure the social and economic ills. Experience had shown that the use of security measures had no effect on fundamentalist thinking and violent action and that there was no solution except through dialogue, the application of the law and the search for serious solutions to the economic and social problems that were at the root of the violence.

24. That applied equally to the confrontations between ethnic minorities and national groups in both Iraq and Sudan. It remained certain, however, that the various solutions proposed for achieving peace in those countries were obviously not satisfactory and that the support of the general public and of political forces in the Arab world for the struggle of those national minorities to achieve recognition of their legitimate rights, and their condemnation of the serious violations of collective rights committed by the Governments of those countries, were not sufficient. Greater efforts were needed if a democratic regime which guaranteed the rights of all its citizens including the national rights of its minorities was to be achieved. The Arab Organization for Human Rights was particularly concerned by the fact that, notwithstanding the various constitutional and legal reforms undertaken particularly to guarantee human rights, reinforce pluralism and ensure the exercise of the right to participate in the management of public affairs, the situation had improved very little in the Arab world regardless of the system of government concerned. The Arab Organization for Human Rights had already made it clear, at the World Conference on Human Rights in Vienna, that it stood for cultural particularities and the principle of national sovereignty so long as they reinforced human rights, but those issues should not be used as a pretext to deny rights or do away with guarantees.

25. Lastly, one must remember the Palestinian people, whose rights, particularly the right to self-determination, continued to be violated by Israel, which in pursuing its settlement policy, had also resorted, since the start of the Intifada, to a deliberate policy of expulsion, as was attested to by the expulsion of 418 Palestinians on 17 December 1992 in violation of international law and of the Fourth Geneva Convention, as well as of Israeli military law, since the victims did not have the possibility of defending themselves or of objecting to their expulsion. The agony of the deportees had lasted for eight months and when the sick and the elderly had asked the

closest Israeli position for help they had been fired upon and forced to retreat. Israel had thus provided fresh proof of its insincerity when it claimed that it wanted peace, as was abundantly clear from the bombing of southern Lebanon and the Palestinian refugee camps, even those in the north of the country. That was not how Israel would make others believe that it wanted to negotiate with the Arabs and live in peace with them. The Arab Organization for Human Rights trusted that the Sub-Commission would give due consideration to the matter.

26. Mrs. SCHERER (Amnesty International) said that disappearances and political killings were, by virtue of their nature and scale, among the most serious violations of human rights in the world. In October 1993, therefore, Amnesty International was to launch a worldwide campaign aimed at the eradication of such practices. As a first step, every Government should demonstrate clearly and at the highest level its total opposition to disappearances and political killings. In Tajikistan, the head of State had blamed criminal groups for the killing of scores of people, mostly unarmed civilians, in the weeks after the fall of Dushanbe on 10 December 1992. Information from other sources, however, indicated that those murders had been carried out by forces of the Ministry of the Interior or the People's Front of Tajikistan, a paramilitary group now seconded to law enforcement agencies.

27. It was important that all Governments should ensure that law enforcement officials used force only when strictly required. In the Israeli-occupied territories, 100 Palestinians, 30 of whom were aged 16 or younger, had been shot dead in the first five months of 1993 by the Israeli forces, often in circumstances which suggested that extrajudicial executions were involved. All Governments should ensure that death squads and other paramilitary forces operating with official support were prohibited and disbanded. In South Africa, a judicial commission of inquiry in 1991 had established that a covert military unit, the Civil Cooperation Bureau (CCB), had been involved in the assassination of Government opponents. Its operatives had still not been brought to justice and, although it was supposed to have been disbanded in 1990, the CCB was still being used by the South African defence force to carry out illegal activities.

28. In all cases, arrest and detention should be carried out by authorized officers in accordance with established procedures. Prisoners should never be held in secret detention; they should have prompt access to a judicial authority, their relatives, their lawyers and their doctors. In India, while such legal safeguards were enshrined in the Constitution, the Penal Code and the Code of Criminal Procedure, they were absent from such legislation as the Terrorism and Disruptive Activities (Prevention) Act, which was in force in the States of Jammu, Kashmir and Punjab, where disappearances were reported. In the State of Jammu and Kashmir, arrests were often not recorded by, or even reported to, the local police, so that legal remedies, including applications for habeas corpus, were ineffective. Increasingly, in Jammu and Kashmir, the disappeared were killed while in custody, thus swelling the numbers of the victims of political executions.

29. It was of the utmost importance that all complaints and reports of disappearances and political killings were promptly, impartially and effectively investigated. In Colombia, the Procurator-General's Office had

reported that, during 1992, more than 2,600 complaints of human rights violations, including disappearances and political killings, had been lodged against the army and the police. The numerous judicial and institutional reforms introduced by the Government in recent years had not put an end to such practices. Governments should also ensure that those responsible for human rights violations were brought to justice. In April 1993, the transitional Government of Chad had appointed a commission to investigate reports of hundreds of killings committed by the army in Logone Oriental since January 1993. Seven officers had been identified by witnesses as responsible for recent violations. The Government had stated that some members of the security forces had been detained in connection with the killings, but had not revealed their identities or the charges against them. Moreover, other officers implicated had reportedly been protected from prosecution. As the Vienna Declaration confirmed, the protection and promotion of human rights was the first responsibility of Governments. It was therefore necessary to intercede with Governments of countries where disappearances were reported.

30. In Iraq, in particular, disappearances and political killings were a common occurrence. The Shiite community was particularly affected. Hundreds of Shiite Muslims had reportedly disappeared while in custody and scores of unarmed civilians had been killed in the southern marshes following air attacks. Those attacks had intensified the previous month, causing 4,000 Shiite Muslims to flee to Iran. The fate of some 200,000 Kurds and Arabs who had disappeared during the 1980s was still unknown. In China, the Government still refused to accept responsibility for the killing in 1989 of 1,000 pro-democracy demonstrators, most of them unarmed. At the time, the Sub-Commission had acknowledged that the situation merited international attention. Amnesty International believed that it still did. The Chinese Government continued to commit grave human rights violations, particularly in Tibet, where demonstrators were severely punished by the security forces who sometimes did not hesitate to kill.

31. The Sub-Commission should take all possible steps to put an end to disappearances and political killings. It should continue to identify such situations and to bring them to the attention of the Commission on Human Rights and should urge the Commission to ensure that its own mechanisms for dealing with disappearances and summary and arbitrary executions had sufficient resources to carry out their task. Above all, the Sub-Commission should state, loud and clear, that disappearances and political killings must stop forthwith.

32. Mr. Yimer took the Chair.

33. Mrs. HANSEN (International Lesbian and Gay Association) said that she was pleased to be able to report that, during the preceding year, a number of States had ended their criminal prohibitions on homosexuality. They included the Russian Federation, Lithuania and Ireland. The highest courts in the States of Kentucky and Texas in the United States had ruled that anti-homosexual criminal laws were unconstitutional. Decriminalization of homosexuality had also been approved in the District of Colombia. The first communication addressed to the Human Rights Committee under the International Covenant on Civil and Political Rights from Australia dealt with laws in the State of Tasmania which provided for criminal penalties for homosexual acts.

Her Association trusted that the Human Rights Committee would follow the precedents established by the European Court of Human Rights in similar cases coming from Northern Ireland, Ireland and Cyprus, and would find that the laws in question violated human rights.

34. In many States, the military authorities had been slow to end discrimination against homosexuals. There had, however, been major changes during the past year. For example, the ban which prohibited homosexuals from performing military service had been lifted in Canada, Australia and New Zealand. In the United Kingdom, the only Western European nation to retain such a ban, the situation was gradually improving. There had been no significant change in the United States, however, despite the compromise accepted by President Clinton in July.

35. Notwithstanding the changes in social attitudes and in the practice of States concerning the rights of homosexuals, her Association had to report disturbing examples of violence against homosexuals. People had, for instance, been killed in England, Australia, Brazil and Colombia simply because they were homosexual. There was an undoubted parallel between those events and the rise in racism and ethnic violence in Western Europe. Threats against homosexuals in certain States had, however, formed the basis for applications for refugee status. For example, on 26 July 1993, a San Francisco judge had granted asylum to a Brazilian citizen on the basis that his fear of persecution if he returned to his country was well-founded. With that decision, the United States had joined Canada, Australia, the Netherlands, Germany, Finland, Sweden, Denmark and New Zealand in their interpretation of the term "social group", which appeared in the definition of the word "refugee", as laid down in the Convention relating to the Status of Refugees, since they also included persecuted sexual minorities in that term.

36. Mrs. ALA'I (Baha'i International Community) said that, for 14 years, the Iranian Government had attempted systematically to eradicate the Baha'i religious community. The systematic nature of the persecution of the Baha'is in Iran had been reconfirmed at the forty-ninth session of the Commission on Human Rights when the Special Representative on Iran had made public, in his final report on the situation of human rights in the Islamic Republic of Iran, a confidential memorandum issued by the Supreme Revolutionary Cultural Council of the Islamic Republic of Iran relating to "the Baha'i question" (E/CN.4/1993/41). That document specified strategies for creating economic, social and cultural conditions under which the Iranian Baha'i community would gradually be impoverished and wither away. It also stated that Baha'i children should be indoctrinated against their own faith. The policy of denying Baha'is government employment had also been confirmed in the Iranian Government's response to the final report on the situation of human rights in the Islamic Republic of Iran (E/CN.4/1993/41/Add.1).

37. It should also be noted that Baha'i marriages were not recognized in Iran and that Baha'i cemeteries and holy sites had been confiscated and even destroyed. It was clear that the persecution of the Baha'i community in Iran was of a purely religious nature, since the Iranian authorities had stated that the human rights of the Baha'is would be respected if they recanted their faith.

38. Given the extent of human rights violations the Baha'i community continued to endure, it called on the members of the Sub-Commission to continue to monitor the human rights situation in Iran so long as the rights of the Baha'is, both as individuals and as a religious community, had not been recognized.

39. Mr. ROSSI (International Association for the Defence of Religious Liberty) said that, notwithstanding the statements made by States in support of human rights at the World Conference on Human Rights in Vienna, massive and systematic violations were still occurring virtually all over the world. The international community should therefore step up its activities with a view to applying the international instruments that declared and spelt out universal human rights. That indeed had been underlined by the Secretary-General of the United Nations, Mr. Boutros-Ghali, when he had stated that the United Nations would be discredited if the instruments that protected human rights had no practical relevance or were constantly violated. He had added that the question of international action must arise if States proved unworthy of ensuring the protection of individuals, if they were in breach of the fundamental principles of the Charter and if they became the executioners of human beings rather than their protectors.

40. His Association was therefore turning to the Sub-Commission to request it to take up the case of one State - Saudi Arabia - where there were massive and systematic violations of human rights. The Minnesota Lawyers International Human Rights Committee, a non-governmental organization composed mainly of lawyers, had been investigating the human rights situation in that country since 1989. The conclusions it submitted in its report were a matter of great concern. It was apparent that Saudi Arabia was still an absolute monarchy which reigned over a country where a criminal code, political parties, workers' trade unions, religious freedom and freedom of the press were unknown. Saudi Arabia had acceded to only a very few of the treaties and conventions dealing with human rights which had been adopted throughout the world. The report highlighted Saudi Arabia's many shortcomings in that respect, particularly with regard to the criminal courts system and the treatment of foreign workers, women and the Shiite minority. Arbitrary arrests were frequent, the most frequent victims being foreign workers from developing countries and persons suspected of being Shiite political dissidents. Beatings and physical and psychological torture were common. Trials were rarely public and lawyers for the defence were not even allowed to enter the court room. The judges, who were appointed to and removed from office by the King, appeared to act in accordance with the wishes of the royal family and, in practice, none of them dared to oppose the will of the monarch. Very often, as soon as workers from developing countries arrived in Saudi Arabia, they were forced to accept new contracts, which provided for lower salaries and longer hours of work. Female domestic staff from the developing countries often had to work in conditions akin to slavery and were frequently subjected to physical and sexual abuse.

41. Furthermore, in Saudi Arabia, women were treated as second-class citizens. They were severely restricted in their freedom of action. For instance, no woman could travel far from her home or leave the country without the permission of an older male member of her family. The Saudi Government

also strictly prohibited the practice in public of any religion other than Islam in its territory. Any person who practised another religion or who was found in possession of non-Islamic objects of worship was arrested and, if the person was a foreigner, was deported from the country.

42. The International Association for the Protection of Religious Freedom was certain that the Sub-Commission would do its utmost to ensure that the fundamental rights of those who lived in the territory of Saudi Arabia were respected.

The meeting rose at 5 p.m.